

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SXSW, LLC,

Plaintiff,

v.

FEDERAL INSURANCE COMPANY,

Defendant.

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1:21-CV-900-RP

**ORDER**

Before the Court is the report and recommendation from United States Magistrate Judge Susan Hightower concerning this Court’s subject matter jurisdiction pursuant to the Fifth Circuit’s instructions on remand, (Dkt. 43). (R. & R., Dkt. 47). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Hightower issued her report and recommendation on November 3, 2023. (*Id.*). After the report and recommendation was issued, the parties both filed notices with the Court stating they do not object to the report and recommendation. (Dkts. 48, 49). For clarity, Defendant Federal Insurance Company (“Federal”) also stated that it has no objection to Plaintiff SXSW, LLC (“SXSW”) filing its proposed amended complaint meant to correct the jurisdictional concern identified by the Fifth Circuit. (Dkt. 49, at 1–2).

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge’s proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate’s report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee’s note (“When no

timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

Because the parties state they have no objections to the report and recommendation, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 47), is **ADOPTED**.

**IT IS FURTHER ORDERED** that SXSW’s Unopposed Motion for Leave to File Amended Complaint, (Dkt. 46), is **GRANTED**.

**IT IS FURTHER ORDERED** that this Court has diversity jurisdiction over this action under 28 U.S.C. § 1332(a) because complete diversity of citizenship existed between SXSW and Federal at the time this lawsuit was filed and the amount in controversy exceeds \$75,000.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall supplement the appellate record with copies of all filings since the remand, starting with Dkt. 44, including the amended complaint and this Order.

**IT IS FINALLY ORDERED** that this case shall be returned to the Fifth Circuit for further proceedings.

**SIGNED** on November 14, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", is written over a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE